

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>JUSTIN RYAN LONG,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-12-444-R</b>
	)	
<b>CHAD MILLER, et al.,</b>	)	
	)	
<b>Respondents.</b>	)	

**ORDER**

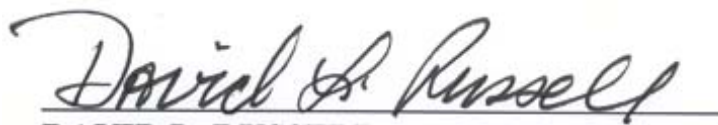
Before the Court are the Report and Recommendation of United States Magistrate Judge Bana Roberts entered February 27, 2013 [Doc. No. 21] and Petitioner's objection filed March 18, 2013 [Doc. No. 22].

The Court agrees with the Magistrate Judge's construction of Petitioner's action as a Rule 60(d) motion or independent action challenging this Court's procedural ruling in Petitioner's prior habeas proceeding (Case No. CIV-07-803-R) that his petition was barred by the applicable statute of limitations. Upon review of Petitioner's objection, reiterating the arguments made before the Magistrate Judge, the Court agrees with the Magistrate Judge that the AEDPA does not abrogate Petitioner's Sixth Amendment rights and that application of the AEDPA's statute of limitations to Petitioner's Sixth Amendment claims was not unconstitutional. Petitioner merely forfeited his ability to assert his Sixth Amendment claims in a habeas proceeding by failing to timely assert them.

Therefore, the Report and Recommendation of the Magistrate Judge [Doc. No. 21] is **ADOPTED** and Petitioner's claims herein, treated as brought in a Rule 60(d) independent

action to relieve Petitioner of the Order and Judgment in his prior habeas action (Case No. CIV-07-803-R), are DENIED.

IT IS SO ORDERED this 19th day of March, 2013.

  
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DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE